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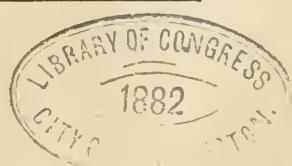
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SPEECH
OF
HON. JAMES R. DOOLITTLE, OF WISCONSIN,
ON
THE LINCOLN-JOHNSON POLICY OF RESTORATION;

DELIVERED

IN THE SENATE OF THE UNITED STATES, JANUARY 17, 1866.



WASHINGTON:
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THE UNION UNBROKEN.

The Senate resumed the consideration of the joint resolution (S. R. No. 11) in relation to the organization of provisional governments within the States whose people were lately in rebellion against the United States, the pending question being on the motion of Mr. Howe to refer the resolution to the joint committee of the two Houses to inquire into the condition of the States which formed the so-called confederate States.

Mr. DOOLITTLE. I ask that the resolution be read at the desk.

The Secretary read it, as follows:

Whereas the people of Virginia, of North Carolina, of South Carolina, of Georgia, of Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee have heretofore declared their independence of the Government of the United States, have usurped authority denied to every State by the supreme law of the land, have abjured duties imposed upon every State by the same law, and have waged war against the United States, whereby the political functions formerly granted to those people have been suspended; and whereas such functions cannot yet be restored to those people with safety to themselves or to the nation; and whereas military tribunals are not suited to the exercise of civil authority: Therefore,

Be it resolved by the Senate and House of Representatives in Congress assembled, That local governments ought to be provisionally organized forthwith for the people in each of the districts named in the preamble hereto.

Mr. DOOLITTLE. Mr. President, how many States constitute that great Republic which the world calls the United States of America? The President and those who think with him say thirty-six. The Senator from Massachusetts [Mr. SUMNER] and my colleague say twenty-five. Where are the eleven? Where is Virginia, North Carolina, South Carolina, Georgia, Alabama, Louisiana, Mississippi, Arkansas, Tennessee, Florida, and Texas? These eleven great States are larger, by thousands of square miles, than England, France, Spain, Portugal,

and the Germanic Confederation, including Austria and Prussia, all put together, as the table I hold in my hand shows:

| | COMPARATIVE TABLE. |
|--|------------------------------|
| | <i>Area in square miles.</i> |
| England | 50,922 |
| France..... | 205,671 |
| Spain and Portugal..... | 219,491 |
| Germanic Confederation, including Austria and Prussia..... | 244,414 |
| | — |
| | 720,498 |
| | — |
| | 723,955 |
| Virginia | 61,352 |
| North Carolina..... | 45,500 |
| South Carolina..... | 28,000 |
| Georgia..... | 58,000 |
| Alabama..... | 50,722 |
| Mississippi..... | 47,156 |
| Louisiana..... | 41,255 |
| Arkansas | 52,198 |
| Tennessee..... | 45,000 |
| Florida..... | 50,288 |
| Texas..... | 237,504 |

These eleven great States, with ten million people, which produce, annually, four million bales of cotton, and are capable of producing double that number, where are they, and what are they? That they once constituted a part of the States of this Union is certain. Do they now? That is the question. President Lincoln, during his administration, and President Johnson, and those who sustain their policy, say they do. The Senator from Massachusetts, [Mr. SUMNER,] the honorable member from Pennsylvania, [Mr. STEVENS,] who oppose that policy, and, to my sincere regret, my colleague, say they do not.

Before giving my views, I will notice what is sometimes said, that this question, namely, whether they are States in the Union under the Constitution, or are Territories, is a mere abstraction—an idea of no practical importance. While I yield to none in the desire to secure practical good and avoid practical evil, I cannot forget that ideas rule the world. They are the spiritual forces which bring on wars, lead in revolutions, and underlie every great move-

ment in the scientific, religious, and political world. I need go no further to find an instance than to this great rebellion against the United States.

Two radical ideas—radically false, however—brought on this civil war, which has cost this nation more than half a million lives, and untold millions of treasure.

First, that States had a right to secede; and,

Second, that slavery is a blessing.

The surrender of those two ideas by the South is now the basis of permanent peace.

Sir, this question, whether those States are still States in this Union under the Constitution, or not, is no vain abstraction, no idea without immediate, practical, and most grave consequences.

Is it of no practical consequence whether, to adopt an amendment to the Constitution, it requires the ratification of twenty-seven or only of twenty-one States?

Is it of no practical importance whether eleven States, with their ten million people, shall be taxed and governed without representation? With less than one third of that number of people, our forefathers, because the Parliament of Great Britain, in which they had no representation, passed laws to tax them, declared the independence of these States.

Is it of no practical importance whether these eleven States and ten million people shall govern themselves under a republican form of State government, subject only to the Constitution of the United States, or whether they shall be held as subject vassals, to be governed for an indefinite period by the unlimited will of Congress, or by the sword?

Is it of no practical importance whether the flag of our country, for which half a million have laid down their lives, and which bears thirty-six stars as an emblem of a Union of thirty-six States, speaks a nation's truth, or is a monstrous falsehood?

These, and many like questions, are involved in this discussion, and depend upon the answer to the first.

It is, therefore, in my judgment, a question of the first magnitude; a question which must be met; a question which neither men nor parties can avoid or put aside. It demands and will have an answer. It is a question, too, upon which there is and there can be no compromise and no neutrality. They are States in the Union under the Constitution, or they are not. We must affirm the one or the other. We must stand upon one side, supporting the Lincoln and Johnson policy, maintaining the Union of the States under the Constitution to be unbroken, or we must take our stand with the Senator from Massachusetts upon the other, and maintain that the Union is broken; that secession is a success and not a failure, so far at least as to withdraw eleven States from the Union or reduce eleven States to the territorial condition.

First, I call to mind the language of President Lincoln's proclamation of December 8, 1863. In that he said:

"I do further proclaim, declare, and make known, that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall re-establish a State government which shall be republican, and in nowise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion.'"

The policy thus announced was entered upon at once in the States of Louisiana, Tennessee, and Arkansas. It received the unanimous support of every member of his Cabinet. While that great man was always open to conviction, and ready to hear the suggestions of others, he became more and more settled and firm in his convictions as to the wisdom of that policy from the date of that proclamation down to the very day of his death.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, being the bill (S. No. 60) to enlarge the powers of the Freedmen's Bureau.

Mr. JOHNSON. I move that that bill be postponed until to-morrow, in order to allow the Senator from Wisconsin to proceed with his remarks.

The motion was agreed to.

Mr. DOOLITTLE. Sir, on the 11th of April last he spoke to the people of Washington. It was on the occasion of the illumination, but three days before his assassination. The great army of the rebellion had surrendered. He had himself visited Richmond, where, from the very house occupied by Jefferson Davis, he had, from time to time, telegraphed the gladdening news of victory upon victory to a rejoicing people. He had returned from the chief seat of the rebellion to the capital of the Union, bringing with him, as the spoils of victory, not gold, nor crowns, nor jewels, but the "broken chains of four million slaves." In that hour of triumph, in that moment of supreme exaltation, he could not refrain, when invited, from appearing before the people to add to the general joy. Among other things he said:

"We meet this evening, not in sorrow, but in gladness of heart. The evacuation of Petersburg and Richmond, and the surrender of the principal insur-

gent army gave hope of a righteous and speedy peace, whose joyous expression cannot be restrained. In the midst of this, however, He from whom all blessings flow must not be forgotten. A call for a national thanksgiving is being prepared, and will be duly promulgated. Nor must those whose harder part gives us the cause of rejoicing be overlooked. Their honors must not be parcelled out with others. I myself was near the front, and had the high pleasure of transmitting much of the good news to you; but no part of the honor, for plan or execution, is mine. To General Grant, his skillful officers, and brave men, all belongs."

"In the annual message of December, 1863, and accompanying proclamation, I presented a plan of reconstruction, (as the phrase goes,) which I promised, if adopted by any State, should be acceptable to and sustained by the Executive Government of the nation?" * * * * *

"This plan was, in advance, submitted to the then Cabinet, and distinctly approved by every member of it." * * * * "Every part and parcel of the plan which has since been employed or touched by the action of Louisiana."

The Senate will remember that Mr. Lincoln's Cabinet then consisted of Mr. Seward, Secretary of State, Mr. Chase, then Secretary of the Treasury and now Chief Justice, Mr. Stanton, Secretary of War, Mr. Welles, Secretary of the Navy, Mr. Usher, Secretary of the Interior, Mr. Blair, then Postmaster General, and Mr. Bates, then Attorney General. Let us remember each and every one of those men approved every part and parcel of that policy. I read still further from this last great speech, in which he gave, in most forcible language, the reasons which made him adhere to and cherish that policy up to the time of his death:

"Some twelve thousand voters in the heretofore slave State of Louisiana have sworn allegiance to the Union: assumed to be the rightful political power of the State; held elections; organized a free government; adopted a free State constitution, giving the benefit of public schools equally to black and white, and empowering the Legislature to confer the elective franchise upon the colored man. Their Legislature has already voted to ratify the constitutional amendment, recently passed by Congress, abolishing slavery throughout the nation. These twelve thousand persons are thus fully committed to the Union, and to perpetual freedom in the States—committed to the very things, and nearly all the things, the nation wants—and they ask the nation's recognition and its assistance to make good that committal.

"Now, if we reject and spurn them, we do our utmost to disorganize and disperse them. We, in effect, say to the white man, 'You are worthless, or worse; we will neither help you nor be helped by you.' To the blacks we say, 'This cup of liberty which these, your old masters, hold to your lips, we will dash from you, and leave you to the chances of gathering the spilled and scattered contents, in some vague and undefined when, where, and how.' If this course, discouraging and paralyzing both to white and black,

has any tendency to bring Louisiana into proper practical relations with the Union, I have, so far, been unable to perceive it.

"If, on the contrary, we recognize and sustain the new government of Louisiana, the converse of all this is made true. We encourage the hearts and nerve the arms of the twelve thousand to adhere to their work, and argue for it, and proselyte for it, and fight for it, and feed it, and grow it, and ripen it to a complete success. The colored man, too, seeing all united for him, is inspired with vigilance and energy and daring, to the same end. Grant that he desires the elective franchise. Will he not attain it sooner by saving the already advanced steps toward it than by running backward over them? Concede that the new government of Louisiana is only to what it should be as the egg is to the fowl, we shall *sooner* have the fowl by hatching the egg than by smashing it." * * *

"I repeat the question, 'Can Louisiana be brought into proper practical relation with the Union *sooner* by *sustaining* or by discarding her new State government?' What has been said of Louisiana will apply generally to other States."

Sir, I have given you his own words. I would • to God they could be read again and again in the hearing of every American citizen. They come to us as his dying legacy upon the great problem of the hour. They state the important fact that this policy was entered upon by him with the full approbation of every member of his Cabinet as to every part and parcel of that policy.

I repeat, and ask the Senate and the country to hear, we have Mr. Lincoln's positive testimony, that Mr. Seward approved it, in general and in detail; Mr. Chase approved it and every part and parcel of it; Mr. Stanton and Mr. Welles also, who still remain in the Cabinet, fully and cordially approved.

And now, sir, I propose to show you that a higher tribunal than Congress, or the Chief Justice of the Supreme Court, or the President and his Cabinet, approved and sustained that policy. The loyal people of the United States, represented at Baltimore, approved it by the renomination of Mr. Lincoln for the Presidency. And, as if to make the endorsement of this part of Mr. Lincoln's policy more emphatic, Mr. Johnson was nominated for the Vice Presidency, the very man of all others who had for a long time been engaged in the great work of reconstructing civil government in the State of Tennessee, upon the basis of that policy. It was objected by some in that convention, as it is here, that Tennessee had no right to representation, but, on motion of the distinguished ex-Senator from New York, (Preston King,) now no more, her delegates were admitted. One of her sons, in spite of the objection of Mr. THADDEUS STEVENS, that he was from a foreign State at war with the United States and therefore an alien enemy, was nominated for Vice President. By those nominations that policy was sustained by the convention.

The election came on. That policy, and the Administration which proclaimed it, and the convention which indorsed it, were sustained by the people of the United States.

Next to the great work of crushing the military power of the rebellion, this policy of reconstruction was dearer to Mr. Lincoln, and more cherished by him, than any other. No sooner had the burden of his soul been lifted, no sooner had he seen the surrender of the great army of the rebellion, than in the fullness and gladness of his soul he made haste to give to the people his views upon the next great theme, reconstruction. I have just read them in your hearing.

The Senator from Massachusetts may denounce them as puerile and wanting in statesmanship. But there they are, and there they will remain forever, the farewell address of Abraham Lincoln to the people of the United States upon this subject of reconstruction.

That Mr. Johnson, upon whom the office of President fell, by the death of Mr. Lincoln, should, substantially, pursue the policy begun by his predecessor, was, therefore, not only natural, but, by the logic of events, almost a necessity. How could he do otherwise? Suddenly, in a moment, as in the twinkling of an eye, the load is thrown from Mr. Lincoln's shoulders upon him; his great responsibility, and his duty, and why not his cherished policy? He was surrounded by the same Cabinet. Who would expect them to advise any other policy?

That policy had been fully entered upon, and in some States the work really done. Mr. Johnson had himself long been engaged in that work, in aiding Mr. Lincoln to realize it in Tennessee. Besides, the convention at Baltimore had sustained it. The great Union party, which re-elected Mr. Lincoln as President, and made Mr. Johnson Vice President, had indorsed it and sustained it triumphantly at the election.

Mr. Johnson could not abandon it without reversing the policy of Mr. Lincoln's administration. That policy was advised by every member of his Cabinet, including, as I have stated, among other names, the very distinguished names of Mr. Seward, Mr. Stanton, and Mr. Welles, still members of the Cabinet, and of Mr. Chase, the Chief Justice, who, just from the bedside of the dying President, administered to Mr. Johnson the oath of his high office. How could he recall that last speech and look upon the dead body of his predecessor; how could he look in the faces of the Chief Justice, as he swore him into office, and of those men in the Cabinet, all of whom had approved every part and parcel of that policy, and upon whom alone he could then rely for counsel and support in the most trying and difficult crisis through which any man was ever called to pass; how, I repeat, could he look upon all those surroundings, and then deliberately abandon the cherished policy of Mr.

Lincoln's administration, trample upon the advice of the old members of his Cabinet, as well as of the Chief Justice himself; abandon his well-known convictions of duty; falsify his own record and betray the great Union party which nominated and elected him, in the contingency which had happened, to be the President of the United States? Had he done so, the whole country would have cried out against him, and with reason. In and out of Congress, men might then have denounced him for betraying the public confidence, and especially for betraying the party which elected him. His Cabinet would have remonstrated against it. The last great speech of Mr. Lincoln, like a voice from his grave, "an angel trumpet-tongued," would plead against it. And, more than all, the President would, in my judgment, have been what Mr. Johnson was never known to be, false to his own convictions of duty.

I put aside, therefore, as not worthy of consideration, the suggestions sometimes made that Mr. Johnson, by adhering to this policy of reconstruction, is ready to betray the Union cause or the great measures of the Union party.

Having thus stated the question, and shown the grounds occupied by Mr. Lincoln, and that Mr. Johnson is substantially pursuing his policy, I return to the main question, and will state, as briefly as I can, the grounds upon which I stand, and give my support to what I call the Lincoln-Johnson policy of reconstruction.

Where are those eleven States, and what is their situation?

And first, where are they?

In this Union, under the Constitution, or not? That they once were in this Union all concede. If they have gone out from this Union it must have been by one or more of three ways:

First, by the way of peaceful secession, by voting and resolving themselves out; or,

Second, by successful revolution, by fighting their way out, to a separate independence; or,

Third, they have been put out by act of Congress.

There is not, and never has been, any other way or ways conceived or stated than one or more of these three.

Strong men of the South have maintained that the first way was always open to them. They asserted the right of peaceful secession. It was always met, however. It was overpowered by the logic of Mr. Webster in this body, and resisted by the iron will of Andrew Jackson during his administration.

It has often been reasserted in this body since I became a member, and as often met and refuted. In their folly and madness, from the decision here, and before the people, the South appealed to arms, to discuss the same question on the field of battle. They tried the second way, namely, by way of revolution, to cut their way out with the sword. That for a time they made fearful progress in that direction no one

denies. But did they succeed? No man, North or South, dare affirm it.

No, sir; no.

Thanks to that Almighty Being who rules the universe, the great generals were found at last capable of organizing and wielding our immense forces. Grant and Sherman and Thomas and Sheridan, and the great officers and brave men under their command, crushed the rebellion, wrenched the sword from the hand of revolution, and then, in the last tribunal known to mankind, in an appeal to the God of battles, by the *ultima ratio regum*, decided, and in such a way as to leave no doubt in any sane mind, North or South, that no State can go out of this Union by the way of peaceful secession, nor by the way of successful revolution. They neither have the right nor the power to do so.

It remains to consider the only other way, the third way, which, for brevity, I will call, with no disrespect to my honorable friend from Massachusetts, **THE SUMNER WAY FOR STATES TO GO OUT OF THE UNION**, namely, by act of Congress.

At the funeral ceremonies here, upon the death of Judge Collamer, he took occasion to announce his theory of disunion, awarding, in great measure, honor, if honor it be, to the deceased, of separating the rebel States from the Union.

I quote his words:

"The great act of July 13, 1861, which gave to the war for the suppression of the rebellion its first congressional sanction, and invested the President with new powers, was drawn by him. It was he that set in motion the great ban, not yet lifted, by which the rebel States were shut out from the communion of the Union. This is a landmark in our history, and it might properly be known by the name of its author, as 'Collamer's statute.'"

Upon such funeral occasions it belongs to each Senator to judge for himself what he shall say. It is a matter of taste. But one thing seems to me certain; whatever may be said at a funeral, it is no proper time to make a reply, and thus bring on debate. I, therefore, remained silent. I yield to no man in a profound regard for the memory and character of that really great and good man, Judge Collamer, and I intend now to do what my heart prompted me to do then, but which a sense of the proprieties of the occasion compelled me to forego, namely, to defend the statute which he drew, and the Congress which enacted it, the President who approved it, as well as himself, from this charge, that this law has opened a way, or that he, or Congress, or the President intended to open a way by which any State could go out, or be thrust out, from this Union of States under the Constitution.

Sir, Congress, under the Constitution, has power to admit new States into this Union. Congress has no power to expel old States, or

to open a way for them to go out; and no man knew better than Judge Collamer that Congress had no such power. He could not have intended to draw such an act without violating his oath to support the Constitution. However lightly some may speak of the obligations of that oath, he was not one of those. He was a radical in the high and noble sense of the term, because he was radically right, radically firm, and radically true to his convictions toward God and toward man.

On one occasion he said:

"I do not know how other members of the Senate look upon the obligation of their oath to support the Constitution of the United States. To me it is an oath registered in heaven as well as upon earth, and there is no necessity that, in my estimation, will justify me in the breach of it. I think those men who are now risking their lives upon the high places of the field to support the Constitution are not to be treated in this Hall by us with the concession that we are ready, if the necessity calls for it, to break it. All that our rebel enemies are engaged in is the overthrow of the Constitution, and all that we are contending for is its maintenance and preservation."

Now, I will not say that the Senator from Massachusetts in the form of seeming praise intended to do any injustice to his name; it was rather to bring, if possible, that great name to the support of his favorite theory. But the effect of what he said would, in my judgment, if accepted, be the greatest possible dishonor; that while Judge Collamer knew that the Constitution gave no right to the States to secede, and gave to Congress no power to expel them or to open a way for them to withdraw from the Union, he, in violation of his oath to support the Constitution, drew this act of July 13, 1861, for the purpose of shutting eleven great States and their ten million people out from this Union under the Constitution. And now, sir, let us look into that statute. It is the fifth section, if any, which clothes the President with this power to expel States from the Union.

How any such power can be found in the language of that section is to me beyond comprehension. The idea which inspired the pen that drew it, so far from being that those States were outside the Union or ought to be placed outside this Union, was directly the opposite, namely, that the people of those States were in the Union, owing allegiance to the Constitution because they were in the Union; that they were struggling to cast off that allegiance by going out from the Union, and that a new war power should be placed by Congress in the hands of the President for the very purpose of forcing them to remain in the Union and resume their allegiance to it, and for no other purpose. That statute was not drawn to shut those States out, but to shut them in the Union; to close every avenue by which supplies could reach them, until the President turning against them the

sword, by which they undertook to cut their way out of the Union, should crush all armed resistance and compel the inhabitants to come under the flag and acknowledge once more their allegiance to the Union. What is its language? After certain recitals, it declares:

"Then and in such case it may and shall be lawful for the President by proclamation to declare that the inhabitants of such State or States, or any section or part thereof where such insurrection exists, are in a state of insurrection against the United States, and thereupon, all commercial intercourse by and between the same and the citizens thereof, and the citizens of *the rest of the United States* shall cease and be unlawful, *so long as such condition of hostility shall continue;*"

with a proviso allowing the President in his discretion to license such intercourse as he might think most conducive to the public interest, under rules and regulations of the Secretary of the Treasury.

We notice, first of all, the authority here given is not to declare certain States out of the Union, but to declare their inhabitants in a state of insurrection. Pray, what is an insurrection but an uprising in arms of people against their own Government, an effort to cast off allegiance they owe to it? It is clear, therefore, that if they were not in this Union, they could not make an insurrection against it. Could the people of Nova Scotia or Mexico make an insurrection against the United States? Because they were in this Union is the very ground and the only ground upon which they could be in insurrection at all.

Again, sir, that statute which gave to the President a new war power, by its very terms was to cease with the war necessity. It was a power to stop commercial intercourse, in order to prevent our own citizens from feeding, clothing, and arming the rebellion, which our armies went to put down. When that work was done, the necessity for non-intercourse was gone; and, by the very terms of the act, all power under it was to cease with the cessation of hostility.

Mr. SUMNER. My friend will allow me just there—

The PRESIDING OFFICER. (Mr. HENDRICKS in the chair.) Does the Senator from Wisconsin yield the floor to the Senator from Massachusetts?

Mr. DOOLITTLE. With all my courtesy to my honorable friend, I prefer to go on with my remarks without interruption.

Mr. SUMNER. I should like to remind the Senator—

Mr. DOOLITTLE. With all courtesy to my honorable friend I must decline to give way, because I desire not to have the argument which I am making broken in upon.

The PRESIDING OFFICER. The Senator from Wisconsin is entitled to the floor, and cannot be interrupted without his consent.

Mr. SUMNER. I only want to say that my language was, "shut out from the communion of the Union," not, "from the Union;" they could not be shut out from that.

The PRESIDING OFFICER. The Senator from Wisconsin is entitled to the floor, and will proceed.

Mr. DOOLITTLE. But, sir, I do not rest here. That statute was passed on the 13th of July, 1861, just about one week before the battle of Bull Run. We shall never forget that day! Our army, though successful in the morning, became panic-stricken in the afternoon, and came back upon Washington in disorder, utterly demoralized; and members of Congress, too, who went out exulting with "On to Richmond!" upon their lips, to see a great victory, to witness "the races" of fleeing rebels, came fleeing home themselves from the field of disaster.

As soon after that battle as the members of Congress could conveniently assemble, in that hour of deep humiliation to us all, a resolution passed both Houses of Congress, by an almost unanimous vote, declaring our purpose in the prosecution of this war, and especially the determination of Congress in relation to the *status and rights of the southern States.* In that hour of defeat, when humbled before the nations and before the Supreme Ruler of the world, Congress, almost unanimously in both Houses, declared—

"That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

This, bear in mind, was after the passage of the Collamer statute, and within two weeks after. It is the later, the more solemn, and the more explicit declaration of the intention of Congress in carrying on the war.

The Senator from Massachusetts says that statute intended to put eleven States out of this Union. Certainly the statute says no such thing. He must infer it. He rests upon inference only, while this resolution, twelve days afterwards, in express terms declares the intention of Congress to keep them in the Union, "to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired." By these words, and none can be stronger, Congress in express terms excludes the possibility of that inference. It does more; it rejects his whole theory of disunion. We expelled Bright, of Indiana, for writing a letter to Jefferson Davis, styling him "President of



the Confederate States," thus, while a Senator, acknowledging the confederacy, and sympathizing with the secessionists in arms.

Had the Senator from Massachusetts, on the 25th of July, 1861, when we passed that resolution to which I have referred, as to the *status* of the southern States and the purpose of Congress in prosecuting the war to put down the insurrection, risen in his place here and declared that the Union was dissolved; that Congress, by the Collamer statute, had put eleven of the States out of the Union; that the war was to be prosecuted for the purpose of conquering, holding, and governing those eleven States, and ten million people, for an indefinite period of time, not as States under the Constitution, but as conquered provinces, and without representation; to be governed by the unlimited power of Congress, or by the sword, as Territories, I do not say that any action would have been taken against him personally, for his rights as a Senator would have been his protection; and, more than that, the sincerity of his motives and his unquestioned patriotism would have shielded him; but I do say that if he had then avowed that doctrine, and been made amenable for the guilt of his theory, he would have been expelled from the Senate as a secessionist, at least a disunionist; for certainly such a theory, announced then, would have given aid and comfort to the rebellion at home, and moral power to its friends abroad.

It will be remembered that resolution was offered in the Senate by Mr. Johnson, the present President of the United States, who was then, and for a long time afterward remained, a Senator from the State of Tennessee, and that, too, long after the Collamer statute, according to the Senator's theory, had placed Tennessee outside the Union. What! Tennessee represented in the Union and at the same time outside the Union! Dead and yet alive!

But some may say that resolution passed Congress too soon after the battle of Bull Run to be taken as conclusive upon this question.

I will refer to other acts of Congress if possible still stronger.

The Constitution says:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers."

Under that authority, Congress, after the passage of the Collamer statute, did both—apportioned both direct taxes and Representatives among the several States, including the southern as well as the northern and western States of this Union. I read from the eighth section of the act of August, 1861:

"And be it further enacted, That a direct tax of \$20,000,000 be, and is hereby, annually laid upon the United States, and the same shall be, and is hereby,

apportioned to the States respectively, and in manner following:

| | |
|-------------------------------------|----------------------------|
| To the State of Maine..... | \$428,826 00 |
| To the State of New Hampshire..... | 218,462 66 $\frac{2}{3}$ |
| To the State of Vermont..... | 211,068 00 |
| To the State of Massachusetts..... | 824,581 33 $\frac{1}{3}$ |
| To the State of Rhode Island | 116,963 66 $\frac{2}{3}$ |
| To the State of Connecticut..... | 305,214 00 |
| To the State of New York..... | 2,603,918 66 $\frac{2}{3}$ |
| To the State of New Jersey..... | 450,134 00 |
| To the State of Pennsylvania..... | 1,946,719 33 $\frac{2}{3}$ |
| To the State of Delaware..... | 74,683 33 $\frac{2}{3}$ |
| To the State of Maryland..... | 436,823 33 $\frac{2}{3}$ |
| To the State of Virginia..... | 937,550 66 $\frac{2}{3}$ |
| To the State of North Carolina..... | 576,194 66 $\frac{2}{3}$ |
| To the State of South Carolina..... | 363,570 66 $\frac{2}{3}$ |
| To the State of Georgia..... | 584,367 33 $\frac{2}{3}$ |
| To the State of Alabama..... | 529,313 33 $\frac{2}{3}$ |
| To the State of Mississippi..... | 413,084 66 $\frac{2}{3}$ |
| To the State of Louisiana..... | 385,886 66 $\frac{2}{3}$ |
| To the State of Ohio..... | 1,507,089 33 $\frac{2}{3}$ |
| To the State of Kentucky..... | 713,695 33 $\frac{2}{3}$ |
| To the State of Tennessee..... | 639,498 00 |
| To the State of Indiana..... | 904,875 33 $\frac{2}{3}$ |
| To the State of Illinois..... | 1,146,551 33 $\frac{2}{3}$ |
| To the State of Missouri..... | 761,127 33 $\frac{2}{3}$ |
| To the State of Kansas..... | 71,743 33 $\frac{2}{3}$ |
| To the State of Arkansas..... | 261,886 00 |
| To the State of Michigan..... | 501,763 33 $\frac{2}{3}$ |
| To the State of Florida..... | 77,522 66 $\frac{2}{3}$ |
| To the State of Texas..... | 355,106 66 $\frac{2}{3}$ |
| To the State of Iowa..... | 452,088 00 |
| To the State of Wisconsin..... | 519,688 66 $\frac{2}{3}$ |
| To the State of California..... | 254,538 66 $\frac{2}{3}$ |
| To the State of Minnesota..... | 108,524 00 |
| To the State of Oregon | 35,140 66 $\frac{2}{3}$ |

Sir, the question I put in the beginning, where are those eleven States? is answered here by Congress; I find them all "included within this Union," to use the language of the Constitution, for the purpose of direct taxation. Every one of those eleven are found there and are taxed by name as States within the Union. Virginia as well as New York; Arkansas by the side of Michigan; Florida and Texas by the side of Iowa and Wisconsin. Direct taxes and representation go together.

Has Congress spoken upon the subject of representation? Most certainly.

By an act approved the 4th of March, 1862, which by its terms was not to take effect till March 4, 1863, Congress apportioned the Representatives upon the basis that those eleven southern States were still States in the Union, with their right to representation unimpaired. By that act, modifying former acts, Congress apportioned Representatives to the several States in this Union as follows:

| | |
|---------------------|----|
| To Alabama..... | 6 |
| To Arkansas | 3 |
| To California..... | 3 |
| To Connecticut..... | 4 |
| To Delaware..... | 1 |
| To Florida | 1 |
| To Georgia..... | 7 |
| To Illinois | 13 |
| To Indiana..... | 11 |

| | |
|------------------------|----|
| To Iowa..... | 6 |
| To Kansas..... | 1 |
| To Kentucky..... | 9 |
| To Louisiana..... | 5 |
| To Maine..... | 5 |
| To Maryland..... | 5 |
| To Massachusetts..... | 10 |
| To Michigan..... | 6 |
| To Minnesota..... | 2 |
| To Mississippi..... | 5 |
| To Missouri..... | 9 |
| To Nevada..... | 1 |
| To New Hampshire..... | 3 |
| To New Jersey..... | 5 |
| To New York..... | 31 |
| To North Carolina..... | 7 |
| To Ohio..... | 19 |
| To Oregon..... | 1 |
| To Pennsylvania..... | 24 |
| To Rhode Island..... | 2 |
| To South Carolina..... | 6 |
| To Tennessee..... | 8 |
| To Texas..... | 4 |
| To Vermont..... | 3 |
| To Virginia..... | 8 |
| To West Virginia..... | 3 |
| To Wisconsin..... | 6 |

That law is still in force. Under that law the present House of Representatives was chosen; under that law the present House is organized; under that law those eleven States of the South have just as much right to representation as the other twenty-five.

Whether those States are in a condition to choose Representatives, and whether they have chosen right Representatives, are questions I will discuss hereafter. I now speak only of their right to have representation under the existing law of Congress.

Thus, by the action of Congress in apportioning direct taxes and representation—those two fundamentals in republican government—the *status* of those eleven States as States included within this Union is declared and acted upon.

Once more, by the act of the 7th of June, 1862, amended as late as February, 1863, Congress, in the ninth section, provided that the tax commissioners in insurrectionary districts, after bidding in for the United States lands sold for unpaid taxes, should, in the name of the United States, enter upon and take possession of the same, and lease the same “until the said rebellion and insurrection in said State shall be put down, and the civil authority of the United States established, and until the people of said State shall elect a Legislature and State officers, who shall take an oath to support the Constitution of the United States, to be announced by the proclamation of the President.” And the twelfth section provides “that the proceeds of the said leases and sales shall be paid into the Treasury of the United States, one fourth of which shall be paid over to the Governor of said State,” “when such insurrection shall be put down, and the people shall elect a

Legislature and State officers who shall take an oath to support the Constitution of the United States, and such fact shall be proclaimed by the President, for the purpose of reimbursing the loyal citizens of said State, or for such other purpose as said State may direct.”

Congress here declares in these sections, not that the States are outside the Union, not that they have lost their rights in the Union, but recognizing the insurrection in these States, declares four things:

1. The intention of Congress to put down the insurrection and re-establish the civil authority in these States.

2. When the insurrection is put down the people of these States have the right to elect their Legislature, Governor, and State officers.

3. When the people elect them, and they take their oath to support the Constitution of the United States, the President is, by law, required to issue his proclamation to that effect. And

4. After the issue of such proclamation, the Secretary of the Treasury is required to pay over certain moneys to the GOVERNOR of the State, to be disposed of as the STATE MAY DIRECT.

That law is in force now; is still the supreme law of the land. Its language demonstrates with complete certainty—a certainty which excludes all doubt—that, in the judgment of Congress, those eleven States are still States in this Union under the Constitution.

Having shown those States to be in the Union under the Constitution, I now inquire, what is their true situation? What rights have they, and what duties devolve on them?

To answer these important questions let us inquire, what constitutes a State?

“A STATE, in the meaning of public law, is a complete or self-sufficient body of persons united together in one community for the defense of their rights. It has affairs and interests; it deliberates, and becomes a moral person, having understanding and will, and is susceptible of obligations and laws.”

All the great writers on public law agree in this.

“In a more limited sense the word State sometimes expresses merely the positive or actual organization of the legislative, executive, or judicial powers; thus the actual Government is designated sometimes by the name of State.”

This distinction between what constitutes a State in the meaning of public law, and the word State as sometimes used to designate the form of its government, is just as clear as the distinction between a man and the garment he wears. In the Declaration of Independence this great distinction between the State, the body political, which constitutes the State, and the form of its government, between “the people” whose right it is “to alter or to abolish” their “form of government,” and “institute a new

government," "organizing its powers in such form as to them shall seem most likely to effect their safety and happiness," and their frame of government is most clearly recognized. The State, the people, the body-politic, "institute, alter, or abolish their form of government." Despotism sometimes treats the body-politic, the State, the people, as if the people were made for the government, and confounds the State with its ruling organization. Not so under the Declaration of Independence, under our republican system. Here the form of government is but an agency to serve the State. Legislatures, judges, and executive officers are servants and not masters. I repeat, under the old despotism the form of government was organized to put all power in the monarch, who sometimes claimed to be the State itself. It was Louis XIV who said, "*l'Etat, c'est moi!*" I am the State. But the people of France, THE STATE, decapitated this despotic assumption in the person of one of his successors. James I asserted the same absolutism, and the people of England, THE STATE, did the same thing when it brought Charles I to the block. It proved to be a very sad mistake in those crowned heads thus to ignore this distinction between the State and its accidents, between the body-politic itself and a mere form of government, when they, in their absolutism, assumed themselves to be, the State.

This distinction, as it seems to me, is sometimes lost sight of among us, and is the occasion of differences of views on the subject of reconstruction. I may be pardoned, therefore, if I dwell still longer on this important point.

I have shown that in view of public law nothing can be more clear than that a State does not consist of the form of its government. That is one of its accidents. That may be democratic, aristocratic, or theocratic; it may be military; it may be republican, despotic, or monarchical. It may have any one of these forms, or a mixed one, and yet it is a State. It may change its government every year, as a tree casts off its foliage. The State no more consists of its form of government than a man consists of the garment with which he is clothed. He may change that every day, he may be stripped of any garment whatever; but still the man remains; and for a State to change its form, or, for the time being, to be stripped of all form of government, no more destroys its existence than is a man destroyed when he takes off one coat to put on another, or is stripped entirely of his garments.

Nor is a State destroyed by the declaration of martial law in it, nor by war, unless conquered by a foreign Power, or dismembered by revolution, and made into two or more States. To be invaded does not destroy it, if it expel the invader. To be torn by civil war, "and even drenched in fraternal blood," does not destroy it either, unless the final issue of arms shall be against it.

Take the case of Mexico: once a part of the Spanish empire; then a republic; then an empire; again a republic; and then a military dictatorship; once more a republic; in danger now of being usurped by an Austrian monarch, under the protectorate of Napoleon.

But, under all these different forms of government, despotic, republican, military, or imperial, it is the same State. Times without number it has been in civil war, in revolution, almost in anarchy. Its existence as a State, however, still remains; and its rights as a State, among the nations, and especially to choose its own rulers and form of government, remain unimpaired.

Let us now inquire what constitutes a State in this Union, under the Constitution? I answer, the same things which constitute a State not in this Union, except so far as its rights, powers, and sovereignty are limited by the Constitution of the United States. Under that, the United States has entire and absolute sovereignty over all external affairs; over all relations with foreign Powers. The United States has also paramount and absolute sovereignty over all internal affairs committed to it by the Constitution. The State has a limited sovereignty over its domestic affairs and interests. I say limited sovereignty, because an amendment to the Constitution of the United States, which three fourths of all the States can adopt at any time, will still further abridge the rights and powers reserved to the States, and thus give additional powers to the United States. Subject to these limitations, however, States in this Union have all the essential attributes, rights, and powers of States not in this Union.

One of the limitations upon those rights is that it shall have no power to organize any State government not republican in form, while it may adopt any form of republican government. And the same distinction between a State and its government is clearly recognized in the clause of the Constitution which provides that "the United States shall guarantee to every State in this Union a republican form of government." We see by this language a "State in this Union" is one thing; the form of its government another and different thing. Recognizing the right of a State, under the law of nations, to put on or put off its form of government, it was thought essential to the more perfect union of these States under the Constitution to restrict this power of the State over its form of government so far as to deny its right to put on any other than a republican one. And, therefore, when conspiracy and rebellion attempts it, or when usurpation succeeds in doing so, in any State in this Union, the United States not only has the right, but is bound to intervene against such usurpation, and restore to the State a republican form of State government.

And now, what are the facts? Two radical ideas in the cotton States—radically false, how-

ever—namely, that the States had a right to secede, and that slavery was a blessing, had been so long advocated by the statesmen, press, schools, and clergy of those States, that a large portion of their people, both men and women, came to believe in them. These ideas became a part of their political and religious faith. That alone explains the desperate valor and obstinacy displayed by them in this struggle.

Those ideas, like a contagion, pervaded the cotton States, and took deep root in the States of North Carolina, Virginia, Tennessee, Arkansas, Missouri, and Kentucky—not to the same extent, however. From conviction, by persuasion, through sympathy, or fear, or force, many of the people—not a majority, however—of the Gulf States followed the lead of their chief conspirators, and were plunged by them headlong into rebellion. Most of the persons exercising the functions of State government—the functionaries—from choice, force, or interest, joined it also, and thereby the State governments, as organized, were dominated by the rebellion and made to do its work. It was a usurpation.

In that work they went further, and endeavored to establish a confederation of States, as an independent Power among the nations of the earth. As all these proceedings were in violation of the Constitution, and legally null and void, the United States was bound to treat them as such, and maintain the supremacy of the Constitution.

The rebellion appealed to the sword. Had the rebellion been successful it would have become a revolution, and whether right or wrong, the separation of those States and the overthrow of the Constitution in those States would have become an accomplished fact. But the rebellion was not successful. To attempt and to succeed is one thing; to attempt and fail is another. In the one case it is suppressed insurrection; in the other a successful revolution, in which a new Power is born into the family of nations. Like the bonds for the confederate debt, payable only after the United States shall recognize its independence, the confederacy itself can have no existence until its independence is secured. The whole question turns on success or failure, victory or defeat.

But here arises another and entirely different question: what effect did the rebellion and our overcoming it have upon the functions of the so-called confederacy and of the State governments? The functions of the confederacy, with the confederation itself, were utterly overthrown. It was a complete collapse. Under the Constitution it never had any validity. It was always null and void—an illegality; more, sir, a crime. It rested not upon its right, but upon its sword. When that was taken it vanished. And all that remains to the great conspirators are the disappointed hopes and hideous dreams, unrealized, of madness, folly, and ambition.

But what effect did the rebellion have during its existence upon the forms of government, upon the persons exercising the functions of government, and upon the laws themselves existing before the rebellion in these States? I answer, generally, the rebellion from the beginning was an attempt at revolution, to dissolve the allegiance of those States and their people to the Constitution of the United States, and to transfer that allegiance to the new confederation of States; and for the time being just such changes were made in their form of government and functionaries and laws as would aid that object, and no more.

Bear in mind, the rebellion did not contemplate destroying these States or reducing them into Territories at all. The prominent idea was or pretended to be to save to the States greater rights and powers and sovereignty than were conceded to them in the Union under the Federal Constitution, one of which was this right of State secession.

The whole purpose of the rebellion was to transfer the allegiance of those States from the Federal Union to the confederation of the South. Our whole purpose was to prevent that, and save those States in the Union, and compel them and their people to acknowledge their allegiance to it.

We struggled to save the States in a more perfect Union under our Constitution.

They struggled to save the States with greater rights and powers in the confederation.

Upon this the war was made by them, and upon that issue it went on until the end.

Neither party belligerent sought to destroy, but to save the States.

Neither party sought to destroy, but to save a republican form of government in each of those States.

Neither party sought to take from the people of those States the right to choose their Governors and Legislatures, and to have their own judicial officers, nor to take away the right of representation in a national Government.

But the real issue was whether these officers would bear allegiance to the Federal Union or to the rebel confederacy. Neither party struggled to take from the people of those States their right to govern themselves, under their own State laws—which, after all, is republican government—nor to disturb the great body of those State laws. Except in so far as they aided the Union or the rebel cause, neither sought to make any change, or claimed the right to make any, whatever. It is true that slavery, to defend which was the avowed object of the rebellion, and which became during the war the chief support of its armies, was put directly in issue. It was the corner-stone of their confederacy; and when the confederacy fell its corner-stone was of course buried in its ruins. I can affirm, then, that neither the State nor its government, neither its office of Governor, its Legislature,

or its judiciary, were, during the rebellion, sought to be destroyed or changed in any manner by either belligerent party, any further than it bore upon the question of allegiance to the Union upon one side, or to the rebel confederacy upon the other, and to the existence or the destruction of slavery.

But for slavery, and questions growing out of it, and ambitions and ideas fostered by it, there never would have been any rebellion at all.

No change was sought in the *status* of the States, in the forms of their governments, or in their laws, except for or on account of slavery alone.

Take the case of Georgia, the empire State of the South. Did the rebellion attempt to destroy the State of Georgia, as a State? Not at all. It did attempt to dissolve all relations with the United States, and transfer them to the rebellious confederacy; to throw off allegiance to the Federal Constitution, and come under the confederate constitution; in short, to take Georgia as a State out of the Union and put it into another union, in a new confederation. Had the rebellion succeeded, would the State of Georgia have been destroyed? It would certainly have ceased to be a State in this Union, but it would have still existed as a powerful State, not as a Territory, in its new political relations. The great body of its constitution would remain the same, the great body of its civil and criminal laws the same, as before the rebellion. All the laws on contracts, bargain, sale, and conveyance of real estate; all the laws concerning real or personal estate; the laws of marriage; the family relations; and generally all the rights and remedies affecting persons and property and personal liberty, would have remained the same. No effort was made materially to change them. The only effect, in case the rebellion had succeeded, would have been to make Georgia a State outside of this Union, a State in another Union.

Now that the rebellion has utterly failed to put the State of Georgia into a new union, did the attempt to do so, and the crushing of that attempt, put Georgia as a State out of this Union? or destroy Georgia as a State in this Union? or reduce Georgia from a State in this Union to be a Territory? This seems to be the view advocated by my colleague in his elaborate and able speech upon this resolution. It is due to him and to the important questions involved that I give some further attention to this part of the subject.

I shall not go over the ground I have already trod; I will only observe that it is beyond belief to suppose that the people or the State of Georgia themselves ever intended to reduce themselves from the condition of a State to the condition of a Territory. Their ruling idea, their intensest wish, was to exalt the State and make its sovereignty paramount. It was with them a passion. It became their frenzy. The United States had no such purpose either.

I have already shown you that by all the legislation of Congress, by every proclamation of the President, neither Congress nor the President ever held any other language than what was expressed in the last clause of the resolution of July 24, 1861, that our purpose was to maintain the "supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired."

But to pursue the case of Georgia a little further. While, as I have shown, neither party belligerent sought to destroy, and both sought to save and to hold the State of Georgia, the one as a State in this Union, and the other as a State in the rebel confederation, did the issue of arms, which decided it should not be a State in the confederation, and should remain under the supremacy of the Constitution, reduce Georgia to the territorial condition, against her own wish and the avowed purpose of Congress? I have already shown that Georgia was not changed from a State to a Territory by the rebellion. Was it so changed by our crushing the rebellion?

I admit that, pending the progress of this great civil war, the greatest the world ever saw, the growth of military power was such in all those States of the South as to almost suspend the civil laws—certainly during the last two years of the rebellion; that rebel martial law dominated the whole confederacy, and subjected at will the civil law to its dominion. It became for the time being a bloody rebel military despotism.

When our armies entered Georgia and overcame the rebel army, then what was the effect? The first and immediate effect was to substitute Union martial rule for rebel martial rule. Neither the one nor the other, as we have seen, destroyed the existence of the State. But it did what war always does, more or less, suspended for the time being the civil laws and the functions of civil government in the clash of arms. It neither suspended nor destroyed the State, but it changed the ruling power in it from the commander of the rebel army to the commander of the Union army.

Just before General Sherman entered Georgia, what was the law of Georgia? The will of the rebel general. Just after his surrender, what became the law of Georgia then? The will of General Sherman, under the Commander-in-Chief, both under the Constitution of the United States. The whole people of Georgia, black and white, bond and free, became subject, for the time being, to military rule, subject to military control, under the laws of war. Of all governments the military is most despotic. It is concentrated despotism, despotism without any mixture. He could have wasted every field, burned every dwelling, sacked every town, pressed every man into service. He did capture and set free every slave. I may here say

those slaves are our prisoners, captives which we have taken from their masters; and by the agencies of the Freedmen's Bureau, under the War Department, we are now endeavoring to make them free in fact, as well as in right.

There was not a horse or mule he could not have taken; not a man, woman, or child he could not have sent out of the State or employed in any service he might have deemed necessary or useful to put down the rebellion, to put an end to the war, which the law of nations does not forbid.

But did General Sherman destroy or intend to destroy the State of Georgia? Did the President order him to destroy it? By no means. He went to save, not to destroy. Did Congress direct the President to destroy it? No; but it did direct him, in the most solemn form, to prosecute the war to preserve Georgia as a State in the Union, with all its "dignity, equality, and rights unimpaired," and that when that object was accomplished the war ought to cease. To that end Congress clothed the President with greater military power than any nation has developed in modern times. And all this tremendous power of the President is conferred by law of Congress. Nothing, in my judgment, can be more certain than that Congress has by law expressly delegated to the President the power to do all he has done in those States, or it has imposed upon him duties which necessarily involved or implied all the powers he has exercised.

By the act of July 22, 1861, the President was authorized to accept five hundred thousand volunteers for the purpose of suppressing insurrection, "provided that the services of the volunteers shall be for such time as the President may direct, not exceeding three years, nor less than six months, and they shall be disbanded at the end of the war." Disbanded by whom? By the President. When disbanded? At the end of the war.

Congress by this and other acts authorizes the President to put into the field nearly two million soldiers to put down this rebellion; to use every means on sea and on land known to civilized warfare to put an end to the war; Congress expressly directs him to disband the volunteers at the end of the war, and by act of July 29, 1861, to reduce the standing Army to twenty-five thousand within one year after the end of the "existing insurrection and rebellion."

But what shall constitute the end of the war? Congress, by resolution of July 24, unanimously declared the end to be when the supremacy of the Constitution is reestablished, and the Union is preserved with the rights, equality, and dignity of every State unimpaired. Congress also declares that the reduction of the standing Army shall take place within "one year after the constitutional authority of the Government of the United States shall be reestablished, and organized resistance to such authority shall no

longer exist"—that is, one year after the end of the war. It is not, as the Senator from Massachusetts and my colleague seem to suppose, to end when those eleven States shall be reduced from their position of States in the Union with their "dignity, equality, and rights unimpaired," to the condition of Territories, which are mere dependencies, with no dignity, no equality, no rights under the Constitution, except to be governed by the absolute will of a Congress in which they have no representation, or to be held by the despotism of the sword. The end of the war was to be the suppression of the rebellion and the maintenance of the Union, under the Constitution, unbroken.

But who is to judge when the constitutional authority of the Government is reestablished? Who is to judge when the organized resistance to such authority has ceased? Upon whom rests the responsibility of deciding these questions? Congress expressly says the volunteers shall be employed as long as the "President shall direct; that he shall disband them at the end of the war; and reduce the regular Army one year after constitutional authority shall be reestablished and organized resistance no longer exist."

The President alone is made the judge of the time when the insurrection is suppressed and when the Army shall be withdrawn. It is no power and no responsibility assumed by him in derogation of law. It is expressly imposed upon him by Congress as a duty. Congress by law authorized and required the President,

First, to raise the Army.

Second, to suppress the insurrection, and reestablish the supremacy of the Constitution.

Third, to preserve the Union of the States with their rights in the Union unimpaired.

Fourth, to judge and determine when those ends are attained.

Fifth, after those ends shall be attained, to disband the Army, and return the soldiers once more to the pursuits of peace.

In short, Congress not only empowered, but required, the President to perform a twofold duty: one, to make war; and the other, to stop making war after its end is reached; in other words, to make peace; the first, to draw and wield the sword; the second, after making peace, to return it to its scabbard.

The first of these great duties, namely, drawing the sword and wielding it, rested mainly upon President Lincoln. The second, namely, making peace, and then sheathing the sword, rests mainly upon his successor; although most fortunately, for him, and for the whole people, Mr. Lincoln had already entered upon the great work of reconstruction, of making peace, in order to be able, after peace had come—to borrow his own beautiful language, after "peace had come, and come to stay," to fulfill that other great duty imposed upon him by the laws of Congress, namely, to disband his immense

Army and send them home; in a word, to restore a nation's peace, in a union of States and peoples under the Constitution, with "their rights unimpaired," and, after that great work, the end and object of all our struggles and sacrifices, was done, to sheathe the nation's sword. While he lived, Mr. Lincoln performed these duties, and performed them well. It is true, there were some mistakes in the beginning; with our inexperience and impatience the wonder is there were not more. Time was necessary to accomplish the great work, to educate the public mind, to prepare the armies, and to find the leaders who were capable of commanding them.

How could Mr. Lincoln know, unless gifted with omniscience, that in the person of a teacher of a military academy in Louisiana, was to be found that Major General Sherman, who, like God's flaming minister, at the head of his conquering legions, was to sweep through the heart of the rebellion? How could he know that in that quiet, unostentatious citizen of Galena, was to be found the great captain of the age, Lieutenant General Grant, who knew when, "like Fabius, to be the cloud, and like Scipio, the thunderbolt of war?" Thank Heaven! he found the great commanders at last, which in God's own good time brought the final and supreme victory over the rebellion. Thank God! Mr. Lincoln was permitted to live until the first great work of crushing the rebellion was almost done, and the second hardly less important work of reconstruction was already well begun. I have already called your attention to his last public speech just before his assassination, in which, in gladness of heart whose expression could not be restrained, for the hope of a righteous and speedy peace, and in which, also, with a power of logic and clearness of statement, and force of illustration never surpassed in the best efforts of that great and good man, he explained and defended and enforced this policy of reconstruction.

It was at such a moment—a moment of most supreme exaltation—when the prayer of his soul was answered; when the long night of blood and agony and tears was past, and the golden light of the morning of peace dawned upon his vision, he fell by the assassin's hand—his consciousness suspended in an instant. From the acme of human glory he passed to the glory on high—from this mortal to the immortal life—a martyr to the cause of his country, and of liberty to all mankind. It was what the ancient world would call an apotheosis.

Thus the great office of President providentially fell upon Mr. Johnson, with all its duties and all its responsibilities; and the gravest of them all, now that the armed forces of the rebellion have surrendered, is this second great duty of making peace, and then disbanding the Army. When he took the Presidency there were more than a million men upon the rolls of the Army, and many of the rebel armies were still in the field.

I now come to the consideration of the most important, and just at this moment perhaps the most practical, question, namely: what were the powers and duties imposed by law upon the President, in closing the war and making peace, which, of necessity, must precede the disbanding of the Army?

Now, in the very nature of things, making peace is just as much an executive duty as waging war.

Who can know, but the Commander-in-Chief, when his adversary yields, when he is destroyed or captured, surrenders, or makes overtures of peace? To whom does the vanquished party cry for quarter and terms of surrender, but to him who wields the sword?

I repeat, sir, making peace is an executive duty just as much as making war. The law of Congress which authorized the war authorized the stopping of the war; the disbanding of the forces which are employed in it, when the President has finished his work and shall think it safe and proper to do so; when he is assured that the war is over, that peace has come, "and come to stay."

If we are engaged in war with a foreign country, when we get through with the war, the President makes peace. Congress has nothing to do with it. The President enters into a treaty of peace, and that treaty is submitted to the Senate for ratification. If two thirds of the Senate advise and consent, the treaty is ratified and peace is made. Congress may declare war, they do not make peace.

How is peace made in case of a civil war among ourselves? When we overcome armed resistance to our laws and the Constitution, which is civil war, when the insurgents shall, in good faith, submit themselves to the laws and the Constitution, peace follows of course. Peace has already come, for obedience to the laws is peace.

All the great writers on public law agree that the whole end and purpose of a just war is to obtain a just and righteous peace; and having shown that this duty of making peace has been placed by Congress upon the President; having shown that, from the necessities of the case, such a duty is executive, and therefore, in its nature, impossible to be done by Congress except through the Executive, I proceed to inquire with whom, and in what way, is the President to make that peace which was the object of the war on our part, and which was a condition precedent to withdrawing the Army? That involves this other inquiry, who and what was or is at war against the United States?

First of all, the rebel army.

No one can doubt the power of the President to deal with that—to fight it, crush it, capture it, or accept its surrender, with or without conditions. If upon conditions, these conditions bind the good faith not only of the Executive but of the United States.

In the terms of Lee's capitulation there was an important condition inserted, binding the good faith of the United States, namely, that, upon condition of their obedience to the laws, the officers and soldiers of the rebel armies should not be disturbed by the authorities of the United States. What member of Congress, what man, in or out of Congress, would propose a violation, on our part, of that stipulation?

There is, in the second place, the people of those States, who have been declared in insurrection, who, from giving aid and comfort to the rebellion, have incurred the crime of treason against the United States, and who are liable, upon trial and conviction, to forfeit their property, their citizenship, and even their lives.

What power has the President, under the Constitution and laws, to deal with these *unarmed* insurgents? First, under the Constitution, he has the power to pardon and restore to citizenship, either before or after conviction; he has the power of amnesty, upon such terms and conditions as he shall judge most conducive to the peace of the country.

If, as many contend, the insurgents are to be treated only in their capacity of individuals, and not in their capacity as States, this power of pardon alone would cover the whole case, and he could restore all to citizenship.

But he had another power over them under the laws of Congress; and I now inquire, upon the surrender of the armies, what further power had the President to deal with those persons who, though not found in arms, were still equally guilty by aiding and abetting the rebellion? I answer, all the power of Commander-in-Chief exercising military rule in those States for the time being.

By the law of nations, the commander of a great and conquering army when he enters a State, for the time being subjects all the civil laws to military control: his will becomes the supreme law, and he a temporary dictator. He may organize a provisional civil government, as the Supreme Court decided in the case of Cross against Garrison, to preserve order and prevent anarchy. Beyond all question, before withdrawing or disbanding his Army, he had the power, and it was his imperative duty, to know whether the rebels not found in arms, who, as many insist, were a large majority of the people of those States, had also submitted and surrendered the rebel cause. Had he at once withdrawn the Union Army upon the surrender of the rebel army, who knows but that another rebel army would have been raised at once to fight against the Government? It was as much his duty, therefore, under the laws of Congress, to make sure of their submission before withdrawing the troops as it was to make sure of the surrender of their armies. Without their submission his work would have been only half done. He therefore had a right—ay, sir, it

was his imperative duty—to deal directly with the unarmed rebels as well as with their military forces, which he could do both as military commander, and as holding the power to pardon.

But there are some who maintain that the States, as bodies politie, in their State capacity waged this war upon the Government. Without admitting or denying this assumption, grant, for the sake of the argument, that to be so, what power and duty would, in that view of the case, be imposed upon the President by law of Congress? I answer, to deal with the States as belligerents.

If the States, as such, were in rebellion and waging war against the United States, then, of course, the law authorizing the President to prosecute the war against the rebellion of necessity authorized the President to prosecute the war against the States; and, as he was not authorized to disband the Army until the war was over, and as the war could not be over until the States submitted to the conditions of peace, the President had the power and it became his duty to deal directly with the States upon the terms and conditions of peace. It was just as much a necessity for him to know that the States submitted and accepted the terms of peace, as that their armies should surrender, before he disbanded the Army of the United States. The object of all legitimate war is to conquer a peace.

If the States, as such, were at war against the United States, the capture of an army would not end the war so long as they should remain hostile. The Army was to be reduced when "organized resistance" should no longer exist. So long as organized States are at war against the Government organized resistance does exist, and he could not disband the Army. Had he immediately upon the surrender of the armed forces disbanded our Army, leaving the States still at war, there would be no peace, and could be no peace; and peace was to be a condition precedent to his disbandment of the Army. All the writers on the law of nations concur that the only lawful purpose of war is peace. The President, therefore, being authorized by law to make peace, was empowered to deal with all the parties at war against the United States, namely, with the rebel army: with all the rebel insurgents, whether they are to be regarded as acting in their individual capacity, or in their organized political capacity as the people of a State.

I now inquire, what must be the terms and conditions of peace in order to put an end to civil war in these United States? I answer, the Constitution of the United States is the paramount and indissoluble bond of union and relationship and peace among the several States. An attempt to overthrow that is civil war. Submission to that is peace. Therefore, neither the President, nor Congress, nor the Supreme

Court, nor all put together, can make any other treaty of peace or bond of relationship among the States. Nothing short of successful revolution, or of a decision of the sovereign people of the United States to amend that Constitution, can change the relationship between the States one jot or tittle. Though men and parties may change, the Constitution as the basis of that relationship in this Union will remain perpetual.

What terms had the President a right to demand of these States, or of their people, as conditions precedent to peace and the withdrawal of the Army?

First, and before all, and as the basis of all, unqualified submission to the Constitution of the United States, and all laws of Congress passed in pursuance thereof.

Second, the annulling of all acts, laws, and proceedings by which the States made or prosecuted war against the United States, including the rebel debt.

Third, acquiescence in the situation which the war has brought upon them, including the abolition of slavery, for and on account of which they made the war; for the sincerity of such acquiescence, and as the supreme test of its good faith, the adoption of the constitutional amendment by which slavery, the cause of the war, is surrendered and made impossible, and liberty made sure, by being placed under the guardianship of Congress in every State and Territory forever.

Fourth, the practical resumption of their political duties, upon those terms, as States in the Union.

These are the conditions, in substance, upon which President Lincoln almost three years ago announced to the people of these States the terms of pacification to which he pledged the support of the Executive Government.

These are the substance of the terms offered by President Johnson.

Several of the States, or the people of several States, have accepted them, and offer now to resume all their political duties as States in this Union, and practically enjoy their rights as such. Shall we allow them to do so?

If these terms have been accepted by these States, or the people of these States, in good faith, is not the faith of this nation pledged? Just as much pledged as by the terms contained in the surrender of their armies?

It is not a sufficient answer to say, this Congress is not bound by the acts of preceding Congresses, and therefore we can pass laws requiring the President to impose other and new terms of pacification not required by preceding Congresses. Technically that may be urged; but it will not do for a great nation, dealing with a fallen enemy after he has surrendered, to impose new and other terms. Had we been fighting with any foreign Power, the treaty made by the President would have been most scrupulously kept. As between and among the States,

the Constitution—which is the treaty of peace, and more than a treaty, which forms a perfect Union, and makes the States one family—is certainly to be regarded with equal sacredness and validity on our part, when after a civil war peace is made, and the offending citizen or State makes submission in good faith, and seeks to renew allegiance. Nothing is more clear than that we have made no conquest of these States. We hold them only by virtue of our original right as States under the Constitution.

But the question is sometimes put, by what power then, if these States are still in the Union, does the President appoint these provisional or military governors? That question is important; but to that question the answer, in my judgment, is perfectly clear. The President does not make the appointment of these agents, call them by what name you will, provisional governors, military governors, commissioners, agents, heralds of peace, generals, anything you please, nor does he employ these agencies, by virtue of his authority as a civil magistrate. They are not civil appointments. They are in no sense civil officers, for there is no law under which they are appointed at all. They are mere military agents of the President, as Commander-in-Chief of the Army, who is bound to ascertain the fact, which he must know before he can discharge this duty of mustering the forces out and of withdrawing the Army. He sends these agents into the several States for the purpose of ascertaining whether the rebellion is suppressed; not only whether the people have ceased armed resistance, but intend to submit in good faith and make no more resistance to the authority of the Government. These agents are by him authorized to ascertain that fact; in substance, to put certain questions to the people in these States, no matter in what form they are to be answered, whether by an election, the casting of ballots, or by an oath. The question is, "Are you willing now, in good faith, to submit to and accept the true situation which the war has brought upon you? Are you ready, as free States, to put on a republican form of government? And are you determined hereafter to be lawful and law-abiding citizens of the United States?" If they answer that they are, what then? "Assure me of that," says the President, "and I will withdraw the military power; I will no longer hold you as Commander-in-Chief; I will no longer govern you by martial law; I will withdraw the troops and let the civil laws, which are silent in the midst of arms, once more come into full play. You may substitute the ballot of the loyal citizen for the bayonet of the soldier which I command. I can then safely sheathe the sword and leave you to yourselves. And when I can do that there is peace."

This is the substance of it all. You may say there is an air of the civilian, a scent of the civil law and civil authority in the legal forms em-

ployed in which to put and answer these questions. What of that? These agents are military agents, although wearing the garb of the civilian. They are called provisional governors, but in reality they are commissioners to propose terms of peace or to see if peace has come in reality, or whether it is a hollow and deceitful appearance of peace only. They are not civil governors, but provisional governors. No matter what you call them; names are of no consequence. If they should be sent out simply as spies, by a commanding general to ascertain the temper of the people; to learn whether they mean to keep the peace, or, as soon as the Army is withdrawn, to fight again, for the purpose of satisfying the President whether he can safely withdraw his military force or not, it is all the same thing. It is, of necessity, a military question, and clearly within the scope and duty of a military commander. It is, therefore, no invasion, no trampling upon the rights of any of those States, to use such agencies.

Now, to illustrate this a little more fully. Suppose the President had not employed anybody, but had gone himself to do all these things that his agent, his commissioner, provisional governor, or whatever you call him, is authorized by him to do; and suppose he should go around himself among the people, and that all his Cabinet should go along with him, administering oaths of allegiance, and organizing elections by which the people could show their disposition toward the Government, in order that, upon his own knowledge, he could determine whether it was his duty still to keep the Army in force or to withdraw it, and say to the people of the State, "Now you can go on; I leave you to yourself; reorganize your civil government, republican in form;" what then would become of this objection that the President was assuming power? It would vanish in an instant.

But suppose he had done this, which in my judgment would have been the simplest of all; suppose he had authorized the general in command to act for him, to do all this through officers in the Army, to test the loyalty and allegiance of the people of those States toward the Government of the United States; to advise them to accept the situation in which the war has placed them; to abolish the institution of slavery; to ratify the amendment to the Constitution of the United States which abolishes slavery in every State, and thus demonstrate that they have accepted their situation as free States forever as the result of this war? Or, go a step further, and suppose that he had authorized General Sherman to make just these propositions to them; suppose they had been made as a part of the term of the surrender of the armies under the express direction of the President, who could ever doubt the President's power as Commander-in-Chief to make them? Who, then, I ask, can doubt that

the President has power to send an agent down into any one of those States, and by the co-operation of the military commander, do precisely the same thing now? Who can doubt it?

The reason, probably, why the Administration, instead of employing a general in command, appointed special agents to do this duty, was twofold: first, because it was supposed that some person who had personal influence among the people, who had not been connected with the Army, might have more influence in prevailing upon that people to accept the situation war had brought upon them than one who had passed through their country in the terrible storm of war, and whose red right hand had been to them like the scourge of God. It was doubtless supposed that a man selected from among their own people, of great influence among them, might be listened to, that his counsels would be more likely to lead them in their very souls to submit, in good faith, to the authority of the Government. We know that, in ancient times, there were certain persons performing substantially the same duties, who were denominated heralds, who were sent out to announce terms of peace upon the termination of the conflict. It does not matter by what names these persons are called. The power exists as one of the necessary incidents of military authority and military operations, a part of which is to make peace as well as to make war.

Another reason, probably, why Mr. Johnson appointed these provisional governors grows out of the fact that his predecessor made similar appointments, and substantially adopted the same policy. As Mr. Johnson's Cabinet is composed of the same men who constituted the Cabinet of Mr. Lincoln, no doubt their advice has been to him the same which they gave to Mr. Lincoln, and which he has accepted as the true policy in restoring civil government in those States.

You remember, as I have before stated, that Mr. Johnson himself was appointed military governor of Tennessee. He had experience in that capacity in endeavoring to restore civil government in that State. Probably no man in the United States was better prepared to judge than Andrew Johnson, growing out of the fact of his ability, his perfect knowledge of the South and of the people of the South, and his actual experience while he was military governor, as he was called, of Tennessee. Therefore he was likely to follow Mr. Lincoln in the line of policy adopted by him, and which he had himself actually tried and put into operation.

But I now come to the question of representation in Congress.

Having shown them to be States in this Union, and therefore entitled to representation under the Constitution; having shown that Congress, by the same law under which the present House

was elected and organized, apportioned the two hundred and forty-one members just as much among these eleven southern States as among the remaining twenty-five, and that under that law their right to representation is just as certain as the right of any northern State. I now come to consider another and wholly different question.

First, whether they have properly chosen Senators and Representatives; and

Second, whether they have chosen right Representatives.

Although a State may have a right to choose Representatives, it may not be in a condition to choose them. A raging pestilence might suspend elections; a foreign invasion might make them impossible; insurrection and civil war might do the same thing; the temper of a people might become so diseased or estranged that for a time they would refuse to choose them. While this would not take away the right to have Representatives it would deprive them of Representatives in fact.

Again, in exercising the right to choose, they may select men, incapable, ineligible, or unfit to be received in either House of Congress.

A friend asked me the other day, shall this Congress admit as Senators and Representatives rebels fresh from the battle-field, whose swords are yet dripping with the blood of our sons and brothers? No, sir, no; who has ever thought or dreamed of any such thing? The oath required of them makes that impossible. And does any one suppose that this Senate, which expelled Bright for writing a letter to Jefferson Davis, has not the power or the courage to defend itself against the guilty instigators of this great crime? Have we no confidence in ourselves?

Another asked, what security have we that the South will not rebel again if we admit their representatives? I answer this question by another: would there not be tenfold more danger of their rebelling if we do not give them representation than if we do? Who does not know that the most justifiable of all causes for rebellion or revolution is *to tax and govern a people without representation?* The old Thirteen rebelled against England for that, and four of those thirteen are among the States my colleague would now reduce to the territorial condition. Up to this time the South never had any justifiable cause for rebellion.

Follow out the policy of the Senator from Massachusetts and my colleague, and you will give them what all the world will say is a just cause for war. By so doing, we shall change positions with them. We shall place ourselves in the wrong, and give them just cause of complaint, now that they have surrendered. We were right in the beginning; right in every step of our progress in the war; right in authorizing the President to end the war when the supremacy of the Constitution was vindicated, and the

union of the States, with their rights and equality unimpaired, restored; right in tendering to the rebels upon their surrender magnanimous terms of peace, more magnanimous than we would offer to a foreign foe, because they are a part of our people, with whom by interest, by necessity, and by the logic of geographical and commercial position, we are forever bound to live and hold the closest relations. If we now direct the President to withdraw the terms of pacification he has offered and they have accepted, and above all, if we should in the spirit of this resolution of my colleague, declare them no longer States in this Union, but Territories, subject to the control of Congress as the other Territories of the United States, we should place ourselves in the wrong, falsify all our professions of devotion to the integrity of the Union, and reduce them to be our dependents and vassals.

For one moment consider the condition of the Territories. They are not under the Constitution at all. Mr. Webster in one of his masterly efforts, Mr. Benton in his review of the Dred Scott case, demonstrated that the Constitution is for States and not for Territories at all. Territories are outside dependencies, and governed by Congress, not under its power limited by the Constitution, but by its absolute power. The Supreme Court decided in Canter's case, and have often affirmed the doctrine, that Congress possessed all legislative power over the Territories as absolute as in the District of Columbia.

What, in effect, does the Senator from Massachusetts and my colleague propose? To place outside of the Constitution and to govern with unlimited power eleven States and ten million people, nearly one third of all the States and people of the United States, without any representation. And is this the way to pacify a great country and satisfy the wish of a great people?

The people of the South have been so completely prostrated by this war that they would bear almost any humiliation before rising in arms again. But if there is any mode of proceeding more likely than any other to provoke them to do so it is this proposition thus to reduce them to be our vassals.

What effect would it have upon ourselves? It would turn the North into a nation of slave-holders, the people of the South being our slaves. All slavery in the end destroys both master and slave. This would very soon make the South not fit to be free, and we ourselves become too much corrupted and demoralized by the exercise of such power to permit them to be free.

To hold them thus would require the presence of a large standing army, which, if kept on foot for a long time, is sure in the end to undermine the virtue of republican institutions and prepare the way for a concentrated despotism, perhaps an empire.

It would subject us to incalculable expense,

which the financial situation of the country is in no condition to bear.

It would, in my opinion, and in this I feel that I am sustained by the opinion of the present able head of the Treasury, affect our national credit most disastrously at home and abroad. It is well known that upon the reception of the President's message at Frankfort-on-the-Main our bonds advanced two per cent. Reverse his policy and treat those States as subject, conquered provinces, and our national credit would sink at once. Such a course would incite, if not produce, another civil war.

It would keep the question open, to be the source of ever-increasing irritation, until all hope of union would be gone.

It would demoralize and dishearten the friends of the Union at the South, and turn their loyalty into hatred. "If," said Mr. Lincoln, "we reject and spurn them, we do our utmost to disorganize and disperse them. If, on the contrary, we recognize and sustain them, the converse of all this is made true; we encourage their hearts and nerve their arms to adhere to their work, and argue for it, and proselyte for it, and fight for it, and feed it, and grow it, and ripen it into a complete success." It would make those who hated the Union during the war, and who, upon the surrender of Lee, gave up all hope or thought of further resistance, and were ready to renew their allegiance to the Constitution, hate the Union more bitterly than ever.

Again, sir, other grave considerations plead to sustain the President's policy. How can we hope that the great mass of the people South will engage earnestly and hopefully in the production of cotton, the great staple of export, unless the pacification of the States is made complete, and in time for the coming crop?

Our financial situation, therefore, demands peace, and peace as a reality. Such a peace would be impossible if we attempt to reduce those States to the condition of Territories.

Some speak of the wealth of our mines. I do not doubt it. But for present resources to meet our engagements they cannot compare with the cotton fields of the South. Every dollar of gold produced in Colorado has thus far cost two. When the railroad reaches the mountains, to carry laborers and supplies, that will be reversed; but not till then.

But were peace now fully restored the cotton fields of the South, worked by free labor and free capital, this season would produce all that our necessities require, and all that industry should hope for to those who engage in it.

I have just seen a letter from William A. Parker, from Evergreen, Alabama, under the date of January 3, 1866, to the Commissioner of Agriculture, in which he says:

"As it may not be uninteresting to you to know what are the agricultural prospects of the present year in this section, I will briefly state the results of my observations in this and the adjoining county of Monroe.

"There is a vigorous and enterprising spirit prevalent. The preparations for the coming crop in the two respects of land and labor are more extensive than ever before.

"The freedmen have shown themselves willing and ready to enter into fair and reasonable contracts to perform labor. Nearly all of them are already employed.

"Planters and farmers are sanguine. A better state of things generally exists than has been known for a long time in this part of the country. There is less idleness and more work on the part of all classes. There is also being exhibited an increased interest in education.

"I have the honor to be, &c."

Sir, everything in our power should be done to secure the crop of the coming season.

Again, sir, how do we stand in relation to foreign Powers? Who does not know that during the rebellion the Emperor of France desired and believed in its success? Because he believed in it he undertook the Mexican intervention. Lord Palmerston sympathized with him, and would, if he could, have committed England to join with him to establish the independence of the southern confederacy.

But England saw a few piratical cruisers, built in her ports and manned by her sailors, under the rebel flag sweeping our commerce from the ocean. She saw at once, that in case of war with us, our cruisers would swarm in every sea and destroy her commerce in return. Therefore, from interest, she refused to accept Napoleon's offer.

And now, can any man so far blind himself to the situation as not to know that we must close up this civil war and restore the union of these States in such a manner as to have the right to claim the allegiance of the southern people before we can speak with the voice of a united people, either to England about damages or to France about intervention in Mexico?

There is no great consideration worthy of a statesman in this crisis which does not plead for and insist upon pacification, and, in my judgment, there is no better way than to carry out the Lincoln-Johnson policy of reconstruction.

The war of blood is over. It is now a moral warfare; a warfare with the reasons, hearts, feelings, passions, prejudices, and sentiments of that people. And of all the propositions which can be conceived there is none, in my judgment, which will so shock the reason, so deeply wound the sensibilities, and so rouse the passions and prejudices of that people, as this proposition to tax and govern them without representation. I now speak of the great mass of the people in those States.

Let no man misunderstand my position. With those guilty leaders who, in this Senate and elsewhere, incited the people of those States to revolt, I have and can have no sympathy. They deserve none. Since the angels rebelled in

heaven there has been, in my judgment, no such crime against God or man.

Why should I have sympathy for them? Do I not remember that if all the blood they have caused to be shed had been poured out in one vast reservoir, Jefferson Davis, his cabinet, and the whole rebel congress could have swum in it? Do I not remember that our prisoners at Andersonville and at other places have been starved to death by thousands, and that upon the authors of such barbarities no punishment is too great? Ah! can I ever forget, until this heart shall cease to beat, that my eldest son, the pride of my life, has been sacrificed in this war, caused by these guilty conspirators? However strong my indignation toward the guilty leaders, I will not allow myself to forget that the great mass of the people of the South were honestly misled by the teachings of Calhoun and his disciples, the press, the schools, and the clergy, upon the right of secession and the blessings of slavery. Nor will I blind my eyes to the fact, equally true, that now the mass of the thinking men of the South, and especially those who were in the rebel army, have not only surrendered their arms, but have surrendered those two ideas upon which alone they made the war. Upon this subject the concurrent testimony of Generals Grant and Sherman, and all the great officers of the Army, is conclusive. They have morally surrendered their cause.

Toward the mass of the people, then, I do have sympathy. In my judgment it is our duty and our best policy to carry out in good faith the terms of pacification tendered by President Lincoln and President Johnson, and accepted by them. Let us at once recognize them as States in the Union, entitled to representation, and take up for consideration each State by itself, and inquire into the election returns and qualifications of those who claim the right to represent them. Let us begin with the State of Tennessee.

My colleague assumes to say that he speaks the voice of loyal Wisconsin. Sir, I do not doubt his sincerity. But I venture to say that, in my opinion, he will find himself greatly mistaken. I know that the late convention of the Union party in that State unanimously resolved that the States of the South were still States of this Union, and that neither by peaceful secession nor by force of arms could they be taken out of this Union under the Constitution.

Another resolution adopted by that convention reads as follows:

"That the *animus* which caused the late rebellion against the United States, was born of the pride and ambition of an aristocracy founded upon slavery, which the war and the emancipation proclamation of President Lincoln has rightfully destroyed; but we deem it essential to the regeneration of the late slave, but now free States, that they should, in good faith, accept their new situation as free States, not only by abolishing slavery in their State constitutions, but by

the ratification by their Legislatures of the amendment to the Constitution of the United States, submitted by Congress and now pending, which forever abolishes slavery in every State, and empowers Congress to pass all laws necessary to secure liberty to all the people, black and white. By its adoption the cause of the rebellion will be removed, slavery destroyed, and liberty established upon a foundation which neither State, nor President, nor Congress, nor court, nor change of parties, can shake—as enduring as the globe itself. By its adoption by the people of those States all the world will know that they accept freedom as their situation, and give up slavery and all hope of restoring slavery forever.

That through the influence of certain newspapers and speeches, there may be some division of sentiment among the members of the Union party now is possible. But when my colleague goes before the people of Wisconsin with the proposition to reduce eleven States to the territorial condition; to tax and govern eleven States and ten million people without representation; when he proposes in effect to do what the rebellion could not do, tear the national flag in twain; to take eleven stars from that flag and reduce the number to twenty-five, he will find, in my humble opinion, that he has utterly misjudged the people of Wisconsin.

If he had said that they look upon treason as a crime, and that some of the guilty leaders should be tried and convicted; if he had said that they insist that under the constitutional amendment Congress should see that the freedman is protected in his civil rights of life, liberty, and property; if he had said that since the abolition of slavery in the southern States has disturbed the basis of apportionment in the House of Representatives, a more just apportionment might be made having reference to the voting or taxable population of the several States, I would agree with him. But upon this proposition of his he would find himself in a minority of less than one third of the voters of Wisconsin. The loyal people of Wisconsin, and of all the States, have been fighting for the integrity of the Union and the entirety of the flag; for pacification upon the basis of the *union of the States under the Constitution*. If this Congress will not act upon that basis, the next Congress will. That is the corner-stone. Whosoever shall fall upon that stone will be broken in pieces; but upon whomsoever it shall fall it will grind him to powder. Men and cliques and parties may oppose and for a time postpone. But as sure as to-morrow's sun shall rise, it will come. Whosoever stands in its way will be trampled in pieces.

In conclusion, from the beginning, and from before the beginning, any separation or destruction of the States, was made impossible. Under the old Confederation, the Union of the States was made "perpetual." And the Constitution was formed to make a more "perfect Union." To admit, therefore, either the right of States

to secede, or the power of Congress to expel them, would be to admit into our system a principle of self-destruction wholly at war with a perpetual or perfect Union. The Constitution, every part of it, and the spirit which gives it life, are against peaceable secession; and that Constitution clothes the Government which it creates with every human power to prevent a separation by force of arms. Those gigantic powers, which had slumbered so long that they were wholly unknown to the world, and hardly dreamed of by ourselves, have been lately brought into full play.

Whatever may be said of the crime of the rebellion, history will record it as one of the most persistent, self-sacrificing, and tremendous struggles the world ever saw; both on the part of the rebels, and on the part of the loyal people of the United States. No other people upon earth could have so resisted, and no other people and no other Government could have overcome such resistance.

But we did overcome it. We did prevent the separation of these States from the Union by force. Every law of Congress, every act of the President, every blow we struck, every shot we fired, every drop of blood we shed, was not to thrust these States out, nor to open a way for

them to go out, nor to reduce them to Territories, but to keep them as States in the Union, and compel them to remain in the Union under the Constitution. The flag of our country bears thirty-six stars, as the emblem of a Union of thirty-six States. Wherever it floats, over this Capitol, at the head of our armies, in the storm of battle, and in the hour of victory, over the sea as well as over the land, that sacred ensign, which, next to the God of heaven, we love and reverence as representing the good, the great, and the true, everywhere bears thirty-six stars, and thereby proclaims to the world the great, fundamental, national truth, there are thirty-six States in the Union, under the Constitution. Thirty-six States constitute that great Republic which the world calls the United States of America. Upon "that line" and under that flag we began the great campaign; upon that line and under that flag half a million of our sons and fathers and brothers have laid down their lives; upon that line and under that flag we fought it out to victory, and now, God helping me, I will continue to fight it out on that line and under that flag to the end, whoever else may abandon it.

[Applause in the galleries, which was checked by the Presiding Officer.]

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